

Letters of Reference for Employees Being Laid Off

Instructions

This document addresses some of the data practice concerns associated with providing employment references for state employees being laid off. It is important for you to be aware that the Minnesota Government Data Practices Act, which regulates the creation, collection and disclosure of government data, applies to all personnel data as well. In disclosing any information about current or former employees of your agency, you must comply with the Act.

IF YOUR AGENCY HAS DETERMINED THAT IT WILL PROVIDE LETTERS OF REFERENCE FOR STATE EMPLOYEES BEING LAID OFF, WE RECOMMEND THAT YOU FOLLOW THESE GUIDELINES.

- Determine ahead of time what approach you will follow for ALL employees. If the type of information you intend to provide is proper, it should apply for all employees.
- Provide letters of reference only when requested to do so by the employee.
- Provide the letter directly to the employee so that s/he has control of disclosing the data. There should be no disclosure from the agency without valid informed consent. Address the letter to “prospective employers” and state in the letter that you have prepared this reference for the employee to use in his/her job search.
- Indicate that you regret the termination, which is due to lack of funding.
- Include any public information which is relevant to your point, e.g. dates of employment, etc.
- Information regarding an employee’s performance is private; however, you may disclose it to the employee. Indicate that the employee received satisfactory performance evaluations. We recommend that you refrain from providing details about the employee’s performance including whether or not the performance exceeded standards. Rather, concentrate on factual information such as job description (to show type of duties performed), number and frequency of promotions, etc. Remember... you may not release this or other private information to anyone except the employee unless you have obtained a valid informed consent.
- Limit any comments about the employee’s strengths and weaknesses to factual statements.

REMEMBER....

PRIVATE DATA includes all data on employees which has not been made public and it may not be disclosed without valid informed consent of the data subject.

PUBLIC DATA includes only the data listed on the following page and it must be provided to anyone who asks for it.

Public Data on Current and Former Employees (Minn. Stat. § 13.43, Subd. 2)

Only the following data on current and former employees* is public. It must be given to anyone who asks for it.

- Name
- Employee identification number, which must not be the employee's Social Security number
- Actual gross salary
- Salary range
- Contract fees
- Actual gross pension
- The value and nature of employer paid fringe benefits
- The basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary
- Job title
- Bargaining unit
- Job description
- Education and training background
- Previous work experience
- Date of first and last employment
- The existence and status of any complaints or charges against the employee, regardless of whether the complaint or charges resulted in a disciplinary action
- The final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body
- The terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money
- Work location
- Work telephone number
- Badge number
- Honors and awards received
- Payroll timesheets or other comparable data that are used only to account for employee's work time for payroll purposes except to the extent that the release of timesheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data

***EXCEPTION: All data related to individuals who are employed as undercover law enforcement officer is private. (Minn. Stat. § 13.43, Subd. 5)**